

## **Madison County EMS**

Carlos B. Coyle, Director

Ron Jackson, Assistant Director

June 18, 2015

Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, KY 40601

Dear Ms. Orme:

Our EMS agency opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services. We are a current holder of a Certificate of Need that has developed an EMS system under the Certificate of Need regulations. We have maintained this system during a very challenging reimbursement times. We feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue by \$538,000. This would obviously be detrimental to our system and potentially jeopardize the availability of ambulance services in the area in which we operate. This opposition isn't entirely about lost revenue, our largest concern is assuring that our citizens and visitors continue to receive high quality care and transportation. We have a 45 year track record of providing exceptional care for our community.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

Carles B. Cayle

Carlos B. Coyle, Director



## Shelby County Emergency Medical Services

101 Old Seven Mile Pike • Shelbyville, KY 40065 (502) 633-5725 Office • (502) 633-5949 Fax

June 9, 2015

Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, Kentucky 40601

Ms. Orme;

Our EMS agency opposes the amendments to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Medical Service system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue tremendously. This could potentially jeopardize the availability of services in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

Jeff S. Ivers, Chief



### Mullins, Diona (CHFS Health Policy)

**Subject:** 

FW: 900 KAR 5:020

From: Orme, Tricia L (CHFS OLS)
Sent: Friday, June 12, 2015 1:55 PM
To: Mullins, Diona (CHFS Health Policy)

Subject: FW: 900 KAR 5:020

From: Robbie Turner [mailto:mcems@windstream.net]

Sent: Friday, June 12, 2015 1:53 PM

To: 'Thomas Adams'; Orme, Tricia L (CHFS OLS); 'John G. Mattingly'

**Subject:** 900 KAR 5:020

Robbie Turner EMT-P Marion County EMS 436 West Walnut Street Lebanon Ky 40033

6-12-2015

Dear Ms. Orme:

Our EMS agency opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a County owned and operated non-profit holder of a Certificate of Need who has developed an Emergency Medical Services system under the Certificate of Need regulations. We currently provided 911 service as well as emergent and non-emergent transports at a deficit to our county budget during these very challenging reimbursement times. We feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue by \$200,000 to \$300,000. This could potentially jeopardize the availability of ambulance services in the area which we operate. This may be more of a deficit than our county could absorb during these economic times.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully, Robbie Turner EMT-P Director Marion County EMS



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1755 Highway 259 North P.O. Box 118 Brownsville, KY 42210

Keith Sanders, NREMT-P, Director Edmonson County Ambulance Service P.O. Box 118 Brownsville, KY 42210

June 30, 2015

Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, KY 40601

Dear Ms. Orme:

This letter is to serve as supplemental comments to our original opposition letter dated May 29, 2015 to the proposed amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

Edmonson County Ambulance Service is operated by the Edmonson County Ambulance Taxing District as a KBEMS licensed Class I provider. Edmonson County Ambulance Service provides 911 emergency response to all of Edmonson County including areas of Nolin Lake and Mammoth Cave National Park. In addition to providing emergency response in this area, Edmonson County Ambulance Service also provides non-emergency transport in its response area.

Removing the Ambulance Service component completely from the State Health Plan will have a negative impact on the quality and availability of Emergency Medical Service in the Commonwealth of Kentucky. While emergency medical services are a vital part of the healthcare landscape, 911 emergency response is also an area of public safety. This area of emergency medical services is generally provided at a financial loss. Many ambulance services such as ours provide non-emergency transport in addition to emergency response to help offset the financial costs of providing emergency response. This helps to reduce the tax burden placed on the citizens of Edmonson County.

Removing the Ambulance Service component completely from the State Health Plan would have the effect of moving all CON applications for ambulance services from the formal review process to the less stringent non-substantive review process where there is a presumed need for the additional service. It would also require the affected parties to provide clear and convincing evidence that the additional service is not needed to prevent the CON from being issued. This would place an undue burden on government operated ambulance services that already have to subsidize their operations with tax dollars. Any loss of revenue from non-emergency transports would likely result in a reduction of emergency response capability or an increase in the amount of tax that citizens would have to pay. Ambulance Taxing Districts in Kentucky are statutorily capped at 10 cents on each one hundred dollars of the assessed valuation of all property in the district by KRS 108.100 and thus are limited to the amount of tax dollars that can be generated. In an era of reduced reimbursements from Medicare, Medicaid, and Medicaid MCOs, any loss of revenue will have a very negative impact on emergency response.



## Edmonson County Ambulance Service



1755 Highway 259 North P.O. Box 118 Brownsville, KY 42210

Edmonson County Ambulance Service is opposed to any changes in the State Health Plan or the CON process that would allow new ambulance providers to provide only non-emergency transports in areas that are currently served by public, government operated ambulance services providing both emergency and non-emergency response thus competing for limited revenue and increasing tax burdens. While there may be justification for the complete removal of the ambulance service component from the State Health Plan, I have not seen any reasoning or benefit that would arise out of the change. Edmonson County Ambulance Service is not opposed to modernization of the CON process, but in the absence of demonstrated benefit and the overwhelming evidence of negative consequences, we cannot support this change.

Edmonson County Ambulance Service realizes that there may be a need for additional non-emergency transport providers in areas with large populations or multiple hospitals. If this is the need that is trying to be addressed, we would be open to changes that would address this issue while protecting the public, government operated ambulance services that provide emergency response. Edmonson County Ambulance Service would also consider supporting a requirement that makes all Class I ambulance services subject to open records requirements. Class I providers are as much a public safety entity as fire and police. They should be subject to the same transparency requirements as any public safety entity whether they are operated by a governmental body, a non-profit corporation, a for-profit corporation, or hospital based.

Respectfully Submitted,

Keith Sanders, NEMT-P, Director Edmonson County Ambulance Service







1755 Highway 259 North P.O. Box 118 Brownsville, KY 42210

Keith Sanders, NREMT-P, Director Edmonson County Ambulance Service P.O. Box 118 Brownsville, KY 42210

May 29, 2015

Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, KY 40601

Dear Ms. Orme:

Our EMS agency opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Medical Services system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue by an average of \$23,741 annually if non-emergency transports were split evenly with one additional provider. Because we are a government operated primary 911 Ambulance Service that also makes non-emergency transports, any loss of revenue from non-emergency transports will have a substantial impact on our ability to provide emergency service to our residents. We operate with minimal staffing, so the potential revenue loss could not be offset by reducing operating expenses. This could potentially jeopardize the availability of ambulance services in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

Jerry Horn
Carter County Emergency Ambulance Service
12 Crossbar Rd.
Grayson, Kentucky.

May 28, 2015

Tricia Orme
Office of Legal Services
275East Main Street 5 W-B
Frankfort, Ky 40601

Dear Ms. Orme

Our EMS agency opposes the amendment to 900KAR 5:020, the State Health plan for facilities services.

As a current holder of a Certificate of Need who has developed an emergency medical service under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue by (enter calculated financial loss information) This could potentially jeopardize the availability of ambulance service in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully

Jerry Horn

Administrator

Carter County Emergency Ambulance Service

B.L. Ball, Director Appalachian 1<sup>st</sup>. Response 1477 Pond Creek Road Stone, KY 41567

May 22, 2015

Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, KY 40601

Dear Ms. Orme:

Our EMS agency opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Medical Services system under the

Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue by [enter calculated financial loss information]. This could potentially jeopardize the availability of ambulance services in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

B.L. Ball

### Mullins, Diona (CHFS Health Policy)

From:

Orme, Tricia L (CHFS OLS)

Sent:

Friday, May 22, 2015 3:40 PM

To:

Mullins, Diona (CHFS Health Policy)

Subject:

FW: opposition to removal of ambulance from the CON process

### Comment (2)

From: Young, Bill [mailto:Bill.Young@eku.edu]

Sent: Friday, May 22, 2015 2:13 PM To: Orme, Tricia L (CHFS OLS)
Cc: 'director@boydems.com'

Subject: opposition to removal of ambulance from the CON process

Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, KY 40601

#### Dear Ms. Orme:

As an EMS Educator who interacts with EMS agencies on a daily basis, I would like to express my opposition to the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a result of an unfair reimbursement schema, all Emergency Medical Services system under the Certificate of Need regulations face a very challenging reimbursement schedule. By allowing others to provide ambulance services in the area where they have been operating without a Certificate of Need could potentially reduce our revenue by thousands of dollars. This lack of economy of scale will endanger the survival of these agencies and allow others to selectively choose patients with private insurance while leaving the current agency to operate in a deficit. This scenario will most certainly jeopardize the availability of ambulance services in the area in which we operate.

For this reason I do not support the removal of the ambulance services section as proposed from 900 KAR 5:020 and encourage your organization to make no edits to the current regulation.

### Respectfully,

Bill R. Young NREMTP, M.S., Ph. D. (c)
Program Director
Assistant Professor
Emergency Medical Care Program
Eastern Kentucky University
21 Stratton Building
521 Lancaster Ave.
Richmond, KY 40475
Office: 859.429.1367

## NET CARE AMBULANCE SERVICE

2897 Blacklog Road P. O. Box 1736, Inez, KY 41224 Telephone: (606) 298-5015 Fax: (606) 298-5993

netcareamb@suddenlinkmail.com

May 26, 2015

Tricia Orme
Office of Legal Services
275 E Main St, 5 W-B
Frankfort KY 40601

Dear Ms. Orme:

Our Emergency Medical Services (EMS) agency opposes the amendment to 900 KAR 5:020 which would remove the ambulance services section of the State Health Plan for facilities and services.

I am a current holder of three Certificate of Needs and have developed an EMS system in multiple counties in rural Eastern Kentucky under Certificate of Need (CON) regulations. I have invested a vast amount of time and tens of thousands of dollars to acquire CONs enabling my service to operate in my respective geographic locations. My service provides 911 services for two counties as well as non-emergency services in three counties. Our service is located in areas with high unemployment rates and high numbers of elderly, disabled and low income individuals.

Allowing others to provide ambulance services in my service areas, as well as the entire Commonwealth, without going through the CON process, could result in a catastrophic loss of revenue for my service and other existing providers and create an even greater shortage of EMTs and Paramedics.

If the CON process for establishing ambulance services is removed, the Commonwealth could potentially turn into the "Wild West" in regard to EMS services. Any could set up a service, any place at any time. I envision that existing services would be subjected to only providing "911" services and that the "new" services that would be established without going through the CON

Tricia Orme May 26, 2015 Page Two

process, would absorb the non-emergency transports that current services depend on for the revenue to off-set the low revenue for "911" calls.

In addition, with the potential of many new additional ambulance services being established, this would further increase the current shortage of EMTs and Paramedics—not to mention that a larger shortage of staff could result in "bidding wars" when it comes to wages.

For these reasons, I do not support the proposed amendment to 900 KAR 5:020 of the ambulance services section of the State Health Plan for facilities and services.

Respectfully,

Terry B. Fraley

Terry B. Fraley, EMT-PE Director



Judge Wallace Taylor
Estill County Judge Executive

130 Main Street, Room 101 Irvine, KY 40336

> (606) 723-7524 Fax: (606) 723-5471 www.estillky.com

Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, KY 40601

June 11, 2015

Dear Ms. Orme:

Our EMS agency opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Medical Services system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue by a substantial amount. This could potentially jeopardize the availability of Estill County Ambulance Services in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

Wallace C. Taylor

**Estill County Judge Executive** 





Jimmie Wise Estill County Emergency Medical Services Irvine KY 40336 June, 15 2015

Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, KY 40601

Dear Ms. Orme:

Estill County EMS opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Medical Services system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating for over 40 years could potentially reduce our revenue by well over 30%. This could potentially be detrimental to Estill county EMS and our community.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

Jimmie R.Wise..NREMTP, A.S,

mm R. Els

Director / Chief
Estill County EMS
22 mercy ct. Irvine, ky
ecemsjwise@irvineonline.net

o. 606-723-2124

f. 606-723-6610

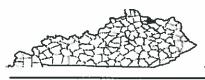
c. 859-582-4935

JUDGE EXECUTIVE

JOHN F. ESTILL COUNTY ATTORNEY

RICHARD NEWBERRY **DEPUTY JUDGE EXECUTIVE** 

IDMINISTRATIVE ASSISTANT



## Mason County Fiscal Court

June 26, 2015

Ms. Tricia Orme Office of Legal Services 275 East Main Street 5 W-B Frankfort, KY 41056

Dear Ms. Orme:

It has come to my attention that there is currently an amendment to 900 KAR 5:020, the State Health Plan for Facilities and Services, being considered for adoption concerning ambulance service.

I understand that a public hearing was held on June 22nd, which I became aware of after the fact and apologize for missing.

This change as I understand would allow other ambulance services to operate without a Certificate of Need impacting our revenue negatively. As county budgets are under ever increasing constraints, this could potentially jeopardize the availability of ambulance services in Mason County.

For this reason, as Mason County Judge Executive, I do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

Joseph P. Pfeffer

Mason County Judge Executive

JP/eh



### CRESCENT SPRINGS / VILLA HILLS FIRE & EMS

777 Overlook Drive • Crescent Springs, Kentucky 41017

Phone: (859) 341-3840 • Fax: (859) 341-2939 • www.csvfd.com

June 26, 2015

Tricia Orme Cabinet for Health and Family Services Office of Legal Services 275 East Main Street 5W-B Frankfort, Kentucky 40621

Dear Ms. Orme:

Our EMS agency opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Medical Services system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue by [enter calculated financial loss information]. This could potentially jeopardize the availability of ambulance services in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

Amy Reis '

**ALS Director** 

Wil Cannon
Edmonson County Judge Executive
P.O. Box 353
Brownsville, Ky. 42210
270-597-2819

To: Tricia Orme
Cabinet for Health & Family Services
Office of Legal Services
275 East Main Street, 5W-B
Frankfort, Kentucky 40621

It has been brought to our attention by Keith Sanders, the Edmonson County Ambulance director, that there is an Amendment being considered that would make the process easier for other entities to operate Ambulance Services in our County. Director Sanders said that this would have a severe negative impact on the financial status of our Ambulance Service.

At this time we have an excellent Ambulance Service and the Edmonson Co. Fiscal Court opposes any Amendment that would have a negative impact on that service.

We are asking you to not amend the Administrative Regulation that would allow another Ambulance Service to operate in our County. If another service is able to come in and they only take the calls that are lucrative then this would leave our Ambulance Service to take the non-lucrative calls. This would not be good for Edmonson County because we may lose the Ambulance Service, that has served us well for many years.

We are not able to attend the public hearing in Frankfort but hope that you will take this letter into consideration on behalf of the Edmonson Co. Fiscal Court.

Thank You **Judge Executive** Wil Cannon

Ulil S. Cann Magistrate District 1 200 mm

Magistrate District 2 \_\_\_\_\_

Magistrate District 3

Magistrate District 4

Magistrate District 5 Johnne

Magistrate District 6

Judge ExecutiVE 6-22-2015



### Robert W. Carpenter, Greenup County Judge Executive

301 Main Street • Room 102 • Courthouse • Greenup, Kentucky 41144 (606) 473-6440 • (606) 473-6864 • FAX (606) 473-9878

June 25, 2015

Tricia Orme Office of Legal Services 275 East Main Street 5 W-B Frankfort, KY 40601

Dear, Ms. Orme:

Greenup County Fiscal Court opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

Greenup County Emergency Management Service is a current holder of a Certificate of Need who has developed an Emergency Medical Services system under the Certificate of Need regulations. We feel that allowing others to provide ambulance services in the area without a Certificate of Need could reduce revenue and potentially jeopardize the availability of ambulance services in the area in which they operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

Robert W. Carpenter County Judge/Executive

## Commonwealth of Kentucky

STATE SENATE

RAY S. JONES, II STATE SENATOR CAPITOL ANNEX FRANKFORT, KY 40601 (502) 564-8100 EXT. 681



P.O. DRAWER 3850 PIKEVILLE, KY 41502 (606) 432-5777

31st SENATE DISTRICT

Ms. Tricia Orme Office of Legal Services 275 East Main Street 5 W-B Frankfort, KY 40621

RE: Opposing Removal of Ground Ambulance from State Health Plan

Dear Ms. Orme,

I write because I oppose the proposal to remove ground ambulance from the State Health Plan (SHP).

In my area, Questcare entered without any review through certificate of need (CON). Not too long afterwards, a Questcare driver had wrecked an ambulance while under the influence and KBEMS shut them down after complaints of an ambulance carrying a passenger in the summer without air-conditioning and after inspecting the fleet and finding many violations. Questcare closed its operations and abandoned our area.

Fortunately, Trans-Star Ambulance Service also serves my area. Trans-Star had had CON review, had proved that it provided quality service, and was financially responsible. CON and KBEMS reached out to Trans-Star to serve Magoffin County because Questcare had been the only provider there.

Removing ground ambulance from CON only threatens further disruption to ambulance services throughout the Commonwealth.

Applicants will not have to prove cost feasibility or the level of quality they provide. They can cherry-pick nonemergency transports, making the emergency response service tip into operating at a loss. If emergency response is to continue, those operations will need to be subsidized. New tax levies will have to be imposed or existing ones raised to ensure emergency ambulance response.

This is exactly contrary to the goals of the CON law. Instead of safe, adequate, efficient health service, removing ground ambulance from the SHP will result in inadequate ambulance service, threatening the safety of my constituents, and requiring that emergency ambulance service will have to be subsidized at a greater public cost.

I ask that the proposed change not be approved.

Sincerely,

Ray S. Jones II

Senate Democratic Floor Leader

## Commonwealth of Kentucky

### STATE SENATE

STATE SENATOR
DISTRICT 29
FLOYD, HARLAN, KNOTT &
LETCHER COUNTIES



SENATE OFFICE: Capitol Annex Room 254 Frankfort, KY 40601 (502) 564-2470

### JOHNNY RAY TURNER

Ms. Tricia Orme Office of Legal Services 275 East Main Street 5 W-B Frankfort, KY 40621

RE: Opposing Removal of Ground Ambulance from State Health Plan

Dear Ms. Orme,

I write to express my opposition to the proposal to remove ground ambulance from the 2015-2017 State Health Plan (SHP). Should the change be made, it will threaten the safety of Kentucky citizens and cost the taxpayers dearly.

Emergency ambulance runs are costly, but they are the most likely runs not to be reimbursed. Nonemergency runs, on the other hand, are the most likely to be reimbursed. It is through this balance of making up the loss of emergency runs through reimbursement for nonemergency runs that our citizens are able to have timely emergency ambulance response. Removing ground ambulance from the SHP jeopardizes this balance.

In my own area, a provider—Questcare—came in without any certificate of need (CON) review. It did so by purchasing the stock of an existing provider. Within a year of operating, there were headlines of a Questcare driver wrecking an ambulance while under the influence, and the entire fleet was shut down by the Kentucky Board of EMS for failing to meet specifications, including operating in the summer without air-conditioning and running on bald tires. In just over two years, Questcare closed operations suddenly, leaving our area in a lurch.

Fortunately, we had another provider, Trans-Star Ambulance Service. Trans-Star had gone through CON review and had proved that its operations were cost feasible and that it provided quality care. When Questcare closed, both CON and KBEMS reached out to Trans-Star to serve Magoffin County, because Questcare had been the only provider there.

Removing ground ambulance from CON makes this scenario more likely.

Tay Jumes

Applicants will be presumed to be needed and will not have to prove cost feasibility or the level of quality they provide. They can sweep in and cherry-pick the nonemergency transports, making the emergency response service tip into operating at a loss. Public officials, like myself, will be pressed into an ultimatum: if emergency response is to continue, operations will need to be subsidized. New tax levies will have to be imposed or existing ones raised to ensure emergency ambulance response.

This is the opposite of what the CON law is supposed to achieve. Instead of safe, adequate, efficient health service, removing ground ambulance from the SHP will endanger citizens due to inadequate ambulance service, which will have to be subsidized at a greater public cost. I oppose the removal of ground ambulance from the SHP and ask that the proposed change not be approved.

Sincerely,

Johnny Ray Turner State Senator



Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, KY 40601

Re: Public Comment Regarding proposed provisions of 900 KAR 5:020

Dear Ms. Orme,

The Kentucky Board of Emergency Medical Services (KBEMS) is pleased to respond to the invitation for comments on the **proposed amendment to 900 KAR 5:020, State Health Plan for facilities and services.** Specifically, KBEMS would like to comment upon the proposed deletion of the Ambulance Service component of the State Health Plan. KBEMS understands that the proposed deletion would not exempt ambulance services from CON review completely, but would instead qualify applications for establishment or expansion of such services for an expedited, non-substantive review process. It is our hope that the comments will provide insight about the detrimental effect this proposed change would have on Kentucky citizens and existing licensed ambulance services.

### **ABOUT KBEMS**

As the regulatory body of ambulance services in Kentucky, KBEMS's duty is to ensure that ambulance treatment and transport is available to all citizens of our state. KBEMS is vested with the responsibility of certifying First Responders and Emergency Medical Technicians; providing licenses to Paramedics and Ambulance Services; and establishing standards for the education and training of Emergency Medical Services personnel. The following comments are submitted with these statutory obligations, and the health and welfare of Kentucky citizens, in mind.

### **CON MODERNIZATION**

The Cabinet for Health and Family Services (CFHS) has stated that modernization of the CON program is needed "to better enable health care providers to work toward improved health for all Kentuckians." CFHS has adopted a "holistic approach" to CON revisions, with the "vision of achieving the Triple Aim: better value, better care, and population health improvement."

CFHS's determination that changes to the Kentucky CON program are needed is largely

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based upon a study and report by the consulting firm Deloitte Consulting, LLP, entitled Kentucky Healthcare Facility Capacity Report, released December 2013. The study involved a review of eighteen (18) types of state health care facilities to determine whether existing health care facility supply could sustain the increase in demand created as a result of anticipated insurance coverage changes across the Commonwealth. Ambulance services was not selected for inclusion in the study, nor is there any recommendation in the report to modify current ambulance services regulations.

CFHS has identified seven "core principles" to guide its efforts in modifying existing CON regulations:

- Supporting evolution of care delivery
- Incentivizing development of a full continuum of care
- Incentivizing quality
- Improving access to care
- Improving value of care
- Promoting adoption of efficient technology
- Exempting services for which CON is no longer necessary

Our analysis concludes that deregulation or significant modification to the CON regulations for ambulance services would be inconsistent with achieving the objectives embodied in these principles.

Principle 1: Supporting Evolution of Care Delivery- At the heart of health care reform is payment reform. To drive new models of care, payment incentives for providers must be offered. Exploring and embracing new payment models, like payment bundling, require existing ambulance providers to assume some financial risks. CON regulations, which exist independently of payment models, serve as a stabilizing force in this transformative period. Modifying the CON regulations could result in a rapid proliferation of new providers, which would result in declining volumes and further financial uncertainty for existing providers.

Principle 2: Incentivizing Development of a Full Continuum of Care- CON regulations do not impede the creation of delivery systems that promote full care continuums. Existing ambulance service providers are working now more than ever with primary care providers, social service agencies, and hospitals to coordinate efforts for improved delivery systems. The regulatory process should promote, not hinder, this push toward greater coordination. CON deregulation or significant modification will destabilize the system and allow for a proliferation of new ambulance services providers who may not be willing to work with other health care providers to maintain modern care

118 James Court, Suite 50 · Lexington, KY 40505 (859) 256-3565 · Fax: (859) 256-3128 Email: KBEMS@kctcs.edu · Website: kbems.kctcs.edu



continuums.

Principle 3: Incentivizing Quality - KBEMS's chief objective is upholding industry quality for the benefit of the citizens of Kentucky. Through the current formal review standard, all CON applications seeking to establish or expand ground ambulance services must demonstrate "quality" as part of five established statutory criteria. Removing ambulance services from formal CON review eliminates the need for applicants to meet this "quality" criterion. As it is now, the CON application process ensures that ambulance services providers operate at volume sufficient to provide quality service while also preventing a proliferation of other providers from flooding the market and thus potentially reducing the quality of existing programs. As the regulatory body of ambulance services, KBEMS is extremely concerned with the diminished safety standards and compliance with licensure requirements that may result from a proliferation of new ambulance services providers. Qualifying ambulance services providers' applications for expedited, non-substantive review incentivizes quantity, not quality.

Principle 4: Improving Access to Care – Deregulation or significant modification of ambulance services could have the highly unfavorable effect of reducing access to care by destabilizing local health systems. Smaller, rural ambulance services are the safety nets in their community and are especially vulnerable to the loss of volume. If CON regulations are modified and weakened, new providers entering the market will likely target patients with commercial insurance and focus on offering profitable, non-emergent scheduled transports. For public, governmental ambulance providers, this is not an option. Instead, they must perform most (if not all) 911 emergency runs at a financial loss and depend on funding through tax dollars, with the expectation that revenue can be generated through non-emergent runs. A loss of commercial insurance patients and non-emergent runs for many rural ambulance services providers would have dire financial consequences. This outcome would leave providers with no choice but to seek increased tax dollars or cease services. This result would adversely impact the most vulnerable in our communities – the Medicaid and indigent populations.

<u>Principle 5: Improving Value of Care</u> - The value of care is not affected by CON regulation. In fact, in most cases, states without CON processes have significantly greater duplication of resources and operate on average at lower volumes per provider.

<u>Principle 6: Promoting Adoption of Efficient Technology</u> – There is no relationship between the adoption of efficient technology and CON regulation. Administrative and clinical information systems are not subject to specific CON regulations in Kentucky. As

118 James Court, Suite 50 · Lexington, KY 40505 (859) 256-3565 · Fax: (859) 256-3128 Emall: KBEMS@kctcs.edu · Website: kbems.kctcs.edu

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such, ambulance services providers are able to acquire new equipment and technology without facing impediments from the CON program. In fact, KBEMS implemented new data submission regulations in 2013 which require all ambulance services in Kentucky to provide data to the board consistent with the standards set forth by the National EMS Information System. Although these data collection technologies may come at a cost to ambulance services providers, the data collected will be utilized in collaboration with the Kentucky Health Exchange, Kentucky Injury Prevention Research Center at the University of Kentucky, and other health care stakeholders to improve efficiency and delivery models across the state health care spectrum.

<u>Principle 7: Exemption Services for Which CON is No Longer Necessary – There are no existing issues, such as limited access or availability, which require the elimination of CON. The elimination of CON substantive review for ambulance services will create significant short-term disruptions with no long-term benefits to the citizens of Kentucky.</u>

### CONCLUSION

Based on the analysis of CFHS's core principles, KBEMS opposes any deregulation or significant modification to the CON program as it relates to ambulance service providers. Qualifying new or expansion applications for an expedited, non-substantive review process will be contrary to the health and welfare of Kentucky citizens; frustrate the statutory obligations of KBEMS; and result in financial instability and disruption of services for existing providers.

Rather than eliminating CON formal review, KBEMS supports selected modifications to support the evolving landscape of Kentucky health care. Adopting a free-market approach will not ensure care continuums, quality, value or access – and may actually discourage these principles.

Again, we are grateful for the opportunity to share our comments regarding the CON program and we welcome an opportunity to work collaboratively with CFHS to achieve the Triple Aim vision.

Sincerely,

Michael Poynter, Executive Director

Michael Panta

Kentucky Board of Emergency Medical Services

118 James Court, Suite 50 - Lexington, KY 40505 (859) 256-3565 - Fax: (859) 256-3128 Email: KBEMS@kctcs.edu - Website: kberns.kctcs.edu



1601 South Preston Street Louisville, Kentucky 40217 502-637-6511 • Fax 502-634-4807

June 26, 2015

Cabinet for Health and Family Services Attn: Tricia Orme Office of Legal Services 275 East Main Street 5 W-B Frankfort, KY 40601

Subject: Written Comments on 900 KAR 5:020. State Health Plan for facilities and services

Dear Secretary Haynes and Ms. Parento:

On behalf of Procarent, I am writing to you today to express our concerns with proposed amendment to 900 KAR 5:020. State Health Plan for facilities and services.

Procarent is a Kentucky company that proudly employs over 1000 employees and serve in numerous areas. We provide service in Louisville and Bullitt County, Daviess County Kentucky & Clark, Floyd and Marion Counties in Southern Indiana. Yellow Ambulance of Louisville & Southern Indiana provides emergency, and non-emergency, ambulance services for Jefferson and Bullitt Counties of Kentucky; and Clark, Floyd and Marion Counties of Indiana. Yellow Ambulance of Daviess County has been the chosen provider of emergency and non-emergency transportation services, as well as, operating the exclusive 911 service without a taxpayer subsidy.

As a member of the Kentucky Ambulance Providers Association we share the same concerns that the Association has put forth regarding the proposed amendment to the State Health Plan. The proposed regulation deletes the Ground Ambulance Review Criteria from the State Health Plan. By doing so, it substantially relaxes the standards by which new ambulance services would be reviewed. Such action adversely impacts existing public and private ground ambulance services as well as the health, safety, and welfare of Kentucky citizens.

While we applaud the Cabinet's efforts in striving to streamline government processes while caring for the needs of our citizens, the changes in the regulation would generate unintended consequences. These changes will gravely impact the existing public, governmental ground ambulance providers. Public, governmental ambulance providers are funded through tax dollars due to their inability to generate a profit. Many counties, cities, etc., have privatized ambulance services that operate with significantly less taxpayer subsidies, or in some cases, with no subsidy. We operate Daviess County, inclusive of Owensboro, for instance, with no subsidy. With processing and approval of new providers under the non-substantive review process, it would be easier for new providers to enter the market and "cherry pick" the more profitable non-emergent transports. If this occurred our business could not continue to operate in Daviess County without a subsidy and would force taxpayers to once again have to provide support for ambulance services.









Under the proposed non-substantive review process, only affected parties may request hearings on CON applications awarded non-substantive review. Without evidence of a provider's ability to provide services in a quality manner, the health, safety, and welfare of Kentucky citizens could be compromised. Further, it may result in providers unexpectedly exiting the market due to financial constraints, which could limit access to ground ambulance services and potentially impact the ability of existing providers to continue to operate. Also, there is currently a great need for additional EMT's and Paramedics in our geographies. As such, we have started paying employees to attend EMT school on a full time basis. Adding additional ambulance providers, while not adding to the number of certified EMT's and Paramedics, will clearly do nothing to help the situation and could in fact cause greater service issues.

We urge the Cabinet to <u>retain the formal review process regarding CON relating to</u> <u>ambulance providers</u>. We welcome the opportunity to further discuss updating the current process to make it more efficient. However, we do not believe that moving to a non-substatnive review process is in the best interest of the citizens of the commonwealth, local governments and our current ambulance providers.

Sincerely,

Steve Coston President

cc:

Governor Steve Beshear

State Senator Julie Raque Adams

State Senator Denise Harper Angel

State Senator Ernie Harris

State Representative Tom Burch

State Representative Mary Lou Marzian

State Representative Reginald K. Meeks

Mayor Greg Fischer

Mayor Ron Payne

Daviess County Judge Executive Al Mattingly

Jefferson County Judge Executive Queenie Averette



### Mullins, Diona (CHFS Health Policy)

From:

Orme, Tricia L (CHFS OLS)

Sent: To:

Monday, June 29, 2015 10:37 AM

Subject:

Mullins, Diona (CHFS Health Policy)

FW: OPPOSITION TO THE PROPOSED AMENDMENT TO 900 KAR 5:020 & State Health Plan (SHP) Ground Ambulance Services

More comments...I've also getting ready to scan a few to you as well. Just and FYI @

From: John Isfort [mailto:jwisfort@gmail.com] Sent: Monday, June 29, 2015 10:23 AM

**To:** Orme, Tricia L (CHFS OLS) Cc: Estill County EMS/S Wise

Subject: OPPOSITION TO THE PROPOSED AMENDMENT TO 900 KAR 5:020 & State Health Plan (SHP) Ground

Ambulance Services

Tricia Orme

Office of Legal Services

275 East Main Street 5 W-B

Frankfort, KY 40601

Dear Ms. Orme:

The Estill County Ambulance Service Taxing District has reviewed the proposed changes to the State Health Plan (SHP) concerning the CON review process for ground ambulance service. Upon review we have great concerns with the proposed changes. The changes proposed to the review process could have a deleterious effect on municipal ambulance services throughout the Commonwealth.

Currently, a CON application seeking to establish or expand a ground ambulance service is processed through full, formal review. Under formal review, the applicant has the burden of proof to show that the application is consistent with all five of the statutory criteria: (1) Consistency with the State Health Plan; (2) Need and Accessibility; (3) Interrelationships and Linkages; (4) Costs, Economic Feasibility, and Resources Availability; and (5) Quality. Either the applicant or an affected party may request a hearing on an application being processed under formal review

The proposed revision to the SHP Ground Ambulance Review Criteria does not remove the establishment or expansion of a ground ambulance service from the CON process but changes review to the expedited, nonsubstantive review process. Under non-substantive review, need for the proposal is presumed. The affected party, not the applicant, has the burden of proof to rebut the presumed need for the proposal by a preponderance of the evidence. The applicant would no longer be required to prove that the application is consistent with: (1) Consistency with the State Health Plan; (3) Interrelationships and Linkages; (4) Costs, Economic Feasibility, and Resources Availability; and (5) Quality. Further, only affected parties may request hearings on CON applications awarded non-substantive review. Without evidence of a provider's ability to provide services in a quality manner, the health, safety, and welfare of Kentucky citizens could be compromised. Further, it may

result in providers unexpectedly exiting the market due to financial constraints, which could limit access to ground ambulance services and potentially impact the ability of existing providers to continue to operate.

The proposed revisions could have a devastating impact on existing public, governmental ground ambulance providers. Public, governmental ambulance providers are funded through tax dollars. They perform the majority, if not all, 9-1-1 emergency runs at a financial loss. These financial losses are offset by income earned on non-emergent, scheduled transports. With processing and approval of new providers under the non-substantive review process, it would be easier for new providers to enter a market and "cherry pick" the more profitable non-emergent scheduled transports. If this occurs, public, governmental ground ambulance providers could be forced to seek tax increases to offset their financial losses or be forced to cease providing services. Such a result could negatively impact the providers and communities they serve.

We urge you to keep in place the full substantive review process as part of the Certificate of Need (CON) for ground ambulance services.

Thank you for your time and consideration of this request.

Sincerely

John Isfort, Chair
Estill County Ambulance Taxing District
D/B/A Estill County Emergency Medical Services
22 Mercy Court
Irvine, KY 40336

John J. Stovall

President

## **TEAMSTERS LOCAL UNION NO. 783**

7711 Beulah Church Road Louisville, KY 40228



June 22, 2015

George L. Nelson Secretary-Treasurer

Mrs. Tricia Orme Office of Legal Services 275 E. Main Street 5 W-B Frankfort, KY 40601

Dear Mrs. Orme,

I am writing you today in regard to the proposed changes to the 2015-2017 State Health Plan, particularly the changes to eliminate Article V - Miscellaneous Services, Section (A.) Ambulance Services, requiring a Certificate of Need. Teamsters Local Union NO. 783 represents 200+ professional clinicians at Louisville Metro Emergency Medical Services, made up of both Paramedics and Emergency Medical Technicians (E.M.T.'s). The abolishment of the Certificate of Need for Ambulance Services for this State would be catastrophic, at minimum, and would increase the morbidity and mortality rate State wide. We are not interested in allowing this to take place without expressing our overwhelming dissatisfaction with the proposed changes, which basically eliminates all language that safeguards the checks and balances of Emergency Medical Services (EMS) and Ambulance Services across the State, to ensure they are needed, qualified and equipped to perform the arduous task of providing Emergency Medicine and Convalescent/Inner-Facility Transports throughout the Commonwealth.

The elimination of this language will not favor our communities and could actually impact them worse than you would expect. The outsourcing of EMS will cause direct impact to our Union Membership at LMEMS, but it doesn't stop there. The Corporate business model Ambulance Services will march right into our hometowns and "Cherry Pick" scheduled convalescent/inner-facility medical transports. Why, you ask? Primarily due to the fact, they have insurance and will pay, which means money in their pockets! They will not desire to go on the Emergency 911 calls for service because there is a chance they will not have insurance or will not pay, which means no immediate funding and increased liability, which the business model doesn't want. The money that helps sustain the existing medical services in our communities will dry up and those services will suffer, along with shortfalls and tough business decisions, such as layoffs, decreasing pay/standards/equipment. This will cause more tax subsidies and additional burdens on the citizens in our Commonwealth to bear the brunt, while Corporations flourish with profits! That is simply unacceptable.

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Furthermore, as if taxation and a detriment to the quality of care isn't enough reason to pull this piece of legislation, the proposal totally contradicts the reasons these parameters were installed to begin with. The duplication of services would increase by multitudes. The Certificate of Need was empowered to keep this very thing from happening. This was the platform to ensure Kentucky citizens that they are receiving the best quality of care, based on the population and the need for those services to be rendered. To eliminate it, only opens up the doors to chaos and destruction. The lowest bidder will have full reign over the existing Services; the quality of medicine by unknown or less credentialed providers would be detriment on our citizens, based on the current standards and the continuum of care.

A quality Service that is fast- isn't cheap, a fast Service that is cheap- doesn't have quality and a cheap Service that has quality- isn't fast. This formula has held true across our Nation. Just because other States do without a Certificate of Need, does NOT mean that Kentucky should follow the trend. It has been proven that some States can go without a Certificate of Need, but in those States, what has happened to the quality of medical care for their citizens? What about the Ambulance Services and the employees who are employed by them? Was this beneficial to the State, or did it create the same atrocious nightmares we took the time to explain in this letter? Even if it benefitted the State, did it truly help the quality of care our citizens deserve? Did it benefit the employees of these Services, who are also citizens, or did it hinder them? Did it help the Services or become just another hurdle that EMS Services has to overcome?

Finally, in conclusion to our position, we have a couple more things to address. There is already a National shortage of Paramedics across this wonderful Nation, with a shortage of EMT's on their coat tails. If more Services come in, since there will be nothing preventing this from happening, where are they going to get their new employees? From the existing Services? At what cost? These are the types of issues that you are facing by eliminating this protected language that is the only thing that truly measures "Who" can, or can't, have an Ambulance Service. If the Fire Departments all want an ambulance in their respective District, then who will provide EMS care when they are out of service on a Fire Run? This already happens in the County of Jefferson, and I am sure it happens elsewhere. Instead of creating additional problems or hardships on our Ambulance Providers, lets be a solution and pull this portion of the proposed changes. There is no need to eliminate this language. Lets ensure all of our citizens in our Commonwealth that we care for them, the quality of medical care and Ambulance Services matter and that we will continue to provide top notch, safe Ambulance Services. Lastly, this care will be reflected and verified by maintaining the checks and balances in the current Certificate of Need and by the Kentucky Board of Emergency Medical Services. Thank you for your time and allowing us to partake in the Public Hearing.

Sincerely,

Justin P. Scharrer Recording Secretary I.B.T. Local Union No. 783 7711 Beulah Church Road Louisville, KY 40228 502-231-9596 ext. 105









June 30, 2015

Ms. Tricia Orme
Office of Legal Services
Cabinet for Health and Family Services
275 East Main Street 5 W-B
Frankfort, Kentucky 40601

RE: Proposed Amendment of 900 KAR 5:020

Dear Ms. Orme:

The Kentucky Association of Counties (KACo), Kentucky County Judge/Executive Association (KCJEA), Kentucky Magistrates and Commissioners Association (KMCA) and the Kentucky League of Cities (KLC) write to express our opposition to the proposed amendment to 900 KAR 5:020 filed with the Legislative Research Commission on May 14, 2015. Specifically, on behalf of our member counties and cities, we object to the proposed removal of the review criteria for ambulance services from the 2015-2017 State Health Plan (May 2015) (the Plan).

Based upon our discussions with officials of the Cabinet for Health and Family Services (the Cabinet), it is our understanding that by eliminating the review standards for ambulance services from the Plan, applicants wishing to establish new ambulance services will be able to obtain a certificate of need through the nonsubstantive review process set forth in KRS 216B.095, thus avoiding the necessity of proving the need for the service as a prerequisite for obtaining the certificate of need.

Many of our member counties and cities have, at great expense to the taxpayers, established emergency medical services (ambulance services) to meet the health care needs of their constituents. Many of those services also provide non-emergency transportation services for their constituents to appointments with physicians and other health care providers and facilities as a mean of offsetting the cost of providing emergency services on a 24/7/365 basis. By allowing applicants to obtain a certificate of need to establish new ambulance services to compete for those non-emergency runs without going through the formal review process or establishing need for the service, the Cabinet would be jeopardizing the counties' and cities' investment in these services and the very ability of local governments to provide emergency medical services to their citizens.

For the forgoing reasons, we oppose the proposed removal of the certificate of need review standards for ambulances services from the 2015-2017 State Health Plan and respectfully request that such standards be retained as they were in the 2013-2015 State Health Plan (August 2013).

Sincerely,

Denny Nunnelley Executive Director

**Kentucky Association of Counties** 

J.C. Young

**Executive Director** 

**KY Magistrates & Commissioners Association** 

Vince Lang

**Executive Director** 

Kentucky County Judge/Executive Association

J.D. Chaney

Deputy Executive Director

Kentucky League of Cities



# KENTUCKY AMBULANCE PROVIDERS ASSOCIATION

606-325-9702 Phone

P.O. Box 165 • Hartford, Kentucky 42347 director@boydems.com www.KyAPA.com

Fax 606-325-9703

June 30, 2015

### VIA FAX ONLY (502) 564-7573

Ms. Tricia Orme, Administrative Specialist III Cabinet for Health and Family Services Office of Legal Services 275 East Main Street, 5W-B Frankfort, Kentucky 40621

RE: 900 KAR 5:020. State Health Plan for facilities and services.

Dear Ms. Orme:

Please accept these comments on behalf of the Kentucky Ambulance Providers' Association, Inc. ("KAPA") in opposition to the proposed changes to the provisions in the State Health Plan ("SHP") governing ambulance services. KAPA is a non-profit trade association that represents and serves a majority, more than 130 of Kentucky's profit and nonprofit licensed air and ground emergency and non-emergency medical services providers. KAPA assists every member to ensure that it provides the highest quality, state-of-the-art care at an affordable cost as well as providing reimbursement representation, continuing education, and professional development services. KAPA is active at both the state and national levels.

The Cabinet for Health and Family Services ("Cabinet") proposes to amend the SHP in a manner that directly and negatively impacts the emergency care delivery system in the Commonwealth. Rather than increasing access to ambulance services, the proposal could actually reduce access to emergency ground ambulance services in Kentucky. This proposal is inconsistent with the statutory purposes of the CON laws and reflects a lack of understanding of the ambulance service delivery system. The proposed revisions could have a devastating impact on existing public, governmental ground ambulance providers. Likewise, the proposal detrimentally impacts private ground ambulance providers and the individuals they serve.

Tricia Orme, Administrative Specialist III Cabinet for Health and Family Services Office of Legal Services June 30, 2015 Page 2 of 4

RE: 900 KAR 5:020. State Health Plan for facilities and services.

KRS 216B.010, delineates the findings and purposes of the CON law:

Insure that the citizens of this Commonwealth will have safe, adequate, and efficient medical care; that the proliferation of unnecessary health-care facilities, health services, and major medical equipment results in costly duplication and under use of such facilities, services, and equipment; and that such proliferation increases the cost of quality health care within the Commonwealth,

Currently, under KRS 216B.040(2)(a)2.a-e and 900 KAR 6:070 Sections 2(1)-(6), an applicant seeking to establish or expand a ground ambulance service must prove by a preponderance of the evidence that it meets the five statutory criteria for approval under formal review: (1) Consistency with plans; (2) Need and accessibility; (3) Interrelationships and linkages; (4) Cost, economic feasibility, and resources availability; and (5) Quality of services.

A CON application considered under the expedited, non-substantive review process is presumed to be needed, a presumption which must be rebutted by clear and convincing evidence, a higher standard than required in the formal review process. "Need" does not include consideration of whether an applicant has sufficient interrelationships and linkages to implement the proposal, is a financially viable provider that is capable of delivering services in a cost-effective manner, or provides quality services. It is critical to the life, safety, and welfare of Kentucky citizens that CON applicants demonstrate their consistency with these statutory requirements, particularly out-of-state applicants that have not proviously served Kentucky citizens and are not regulated under the licensure standards established by the Kentucky Board of Emergency Medical Services ("KBEMS"). By relaxing the CON requirements for new or out-of-state providers, there could be a proliferation of ambulance services that are not, and cannot be, financially viable without cherry-picking the lucrative runs from existing carriers because they do not have appropriate referral sources to implement their proposals. Further, by not having to demonstrate compliance with quality requirements, it may allow new or out-of-state providers with negative licensure and regulatory history to enter the Kentucky market, This includes out-of-state providers that currently operate illegally in Kentucky in direct violation of Cease and Desist Orders issued by KBEMS.

As you know, public, governmental ambulance providers are funded, in part, through tax dollars. They perform the 9-1-1 emergency runs, most at a financial loss. These financial losses are subsidized through tax revenue or other public and private subsidies. Some offset is realized by income earned on non-emergent, scheduled transports. New ambulance providers generally choose the more lucrative business of the scheduled, reimbursed non-emergency transport. By processing new providers' applications under the non-substantive review process, it would be easier for new providers to enter the

Tricia Orme, Administrative Specialist III Cabinet for Health and Family Services Office of Legal Services June 30, 2015 Page 3 of 4

RE: 900 KAR 5:020. State Health Plan for facilities and services.

market and "cherry pick" these more profitable transports, thereby eroding the financial base of the emergency providers. If this occurs, public, governmental ground ambulance providers could be forced to seek tax increases to offset their financial losses or be forced to cease providing services. Such an obviously negative result could impact the health and safety of the providers and communities they serve, particularly rural areas in which the public, governmental ground ambulance providers are the sole provider of ground ambulance services. It may also result in tax increases on Kentucky citizens. As an example, Madison County EMS expects to loose revenue of more than \$500,000, forcing it to cut back on essential 9-1-1 and emergency services. Martin County already has a strained operating budget because of low reimbursement, far below the cost of providing the service, for providing 9-1-1 services. Martin County EMS uses the non-emergency calls to offset the losses of emergency calls.

The addition of unnecessary ground ambulance providers may also result in contract negotiations that ultimately arrive at such low rates that some providers may perform medically unnecessary runs to simply stay in husiness, which could attract CMS and QIG scrutiny. It may also force existing providers to decide they can longer provide the level of services in an appropriate manner, thereby forcing them to leave the market. With the shortage of EMTs and Paramedics, we are already experiencing bidding wars with salaries and that would only get worse with the proposed changes. None of this is in the best interests of providers or Kentucky citizens.

Exacerbating the issue is the fact that there are not enough qualified, trained EMTs and paramedics in Kentucky to provide the necessary staffing for the large number of ground ambulance services that could be approved if this proposal stands. Currently, there is a shortage of EMTs nationwide, and Kentucky is one of the states feeling the impact. If the process is relaxed to allow the proliferation of unnecessary ground ambulance providers, they could only be staffed by recruiting staff away from existing providers. In turn, this may cause existing providers to reduce the services they offer or completely exit the market.

By deleting the ground ambulance review criteria from the SHP, the standards by which new ambulance services would be reviewed will be substantially relaxed. Not only may such an action adversely impact existing public and private ground ambulance services, it may also affect the health, safety, and welfare of Kentucky citizens.

KAPA believes that ground ambulance review criteria should remain in the State Health Plan and proposes that the following criterion be added:

Any existing ambulance service operating in Kentucky that is proposing a new or expanded service must demonstrate that it is in good standing with the KBEMS and that it has not had any

Tricia Orme, Administrative Specialist III Cabinet for Health and Family Services Office of Legal Services June 30, 2015 Page 4 of 4

RE: 900 KAR 5:020. State Health Plan for facilities and services.

discipline, letters of reprimand, or letters of cease and desist for 3 full years prior to filing its application for a certificate of need.

Any ambulance service, not currently licensed in Kentucky, that is proposing a new or expanded service in Kentucky must demonstrate that it is in good standing with the KBEMS and all of the states in which it operates, and that it has not had any discipline, letters of reprimand, or letters of cease and desist for 3 full years prior to filing its application for a certificate of need.

In addition, KBEMS is currently updating its regulations and may add additional licensure categories. If an additional category is added for Class VI providers (BLS/ALS First Responders - No Transport) we would recommend formal substantive review of all Ambulance providers with the exception of Class VI.

Thank you for your consideration of these comments. As always, please feel free to call me for additional information.

Sincorely,

Thomas Adams



P.O. Box 165 • Hartford, Kentucky 42347 • 270-298-4415 • 270-298-4417 Fax

June 30, 2015

## VIA FAX ONLY (502) 564-7573

Ms. Tricia Orme, Administrative Specialist III
Cabinet for Health and Family Services
Office of Legal Services
275 East Main Street, 5W-B
Frankfort, Kentucky 40621

RE: 900 KAR 5:020. State Health Plan for facilities and services.

Dear Ms. Orme:

Please accept these comments on behalf of the Com-Care EMS Inc. in opposition to the proposed changes to the provisions in the State Health Plan ("SHP") governing ambulance services. Com-Care is a for-profit subchapter "S" corporation that operates and manages Class 1 ground ambulance services for three (3) rural Kentucky counties in south-central Kentucky.

The operation of an Emergency Ambulance Service responding to the 911 calls in a rural Kentucky county seldom results in a profitable venture without financial subsidies from the local county government. The low run volume combined with high operating costs and low Medicaid reimbursement result in the requirement that the local government provide financial subsidies for the operation of these services. Part of the need for subsidies is offset by the revenue generated from non-emergency ambulance transports. These transports account for approximately 40% of the total runs and 55% of the revenue generated by our services.

It is imperative that applicants for additional licenses in our service area show the ability to provide quality services and not just "cherry pick" the low hanging fruit which is the non-emergency transportation business. I would estimate in our service area that the addition of 1 additional provider sharing 50% of the non-emergency business would cause our subsidy requirements to local government to increase \$140,000 annually. This amount would fall directly on the backs of local taxpayers.

Marcus Barnett
Vice President - Operations

JIm Duke President

Cynthia Adams
Vice President - Finance

Tricia Orme, Administrative Specialist III Cabinet for Health and Family Services Office of Legal Services June 30, 2015 Page 2 of 2

RE: 900 KAR 5:020. State Health Plan for facilities and services.

It would be our recommendation that the state health plan require substantive review for <u>all</u> classes of Ambulance license. The Kentucky Board of EMS now has the capability to capture usage data to supply the CHFS. This data should be used to determine need as reflected annually in the state health plan.

Thank you for your consideration of these comments. As always, please feel free to call me for additional information.

Sincerely

Cynthia Adams, Vice President, Finance



June 30, 2015

Cabinet for Health and Family Services Attn: Tricia Orme Office of Legal Services 275 East Main Street 5 W-B Frankfort, Kentucky 40621

Subject:

Written Comments on 900 KAR 5:020

State Health Plan for Facilities and Services

Dear Secretary Haynes and Ms. Parento:

As a State Senator from Louisville and a member of the Administrative Regulation Review Subcommittee, I am writing to you today to express my concerns with proposed amendment to 900 KAR 5:020, State Health Plan for Facilities and Services. I have heard from numerous constituents including Procarent and Rural/Metro, two companies that provide services in my district who share my concerns.

At a recent Interim Joint Committee on Health and Welfare meeting Secretary Haynes testified on the State Health Plan. During her testimony she explained that the regulation does not lessen criteria but allows providers to obtain the CON if there is truly a need and provides better access in rural areas with more competition while keeping requirements in place. As I mentioned in the committee, I am extremely concerned over the public safety of our citizens and the impact to local governments.

Secretary Haynes and Ms. Parento Page 2 June 30, 2015

This proposed regulation does delete the Ground Ambulance Review Criteria from the State Health Plan. The notion that it is not lessening criteria seems unclear since the non-substantive review process actually relaxes the standards in the formal review by which new ambulance services would be reviewed. Furthermore, this change could adversely impact our existing public and private ground ambulance services as well as the health, safety, and welfare of my constituents in Louisville. I know firsthand the importance of having access to providers, but do not want to see the public safety of our citizens and the quality of care sacrificed in order to provide better access when there is not an access issue for ground ambulance providers.

Changing the process could have additional negative impacts to localities and public and governmental ambulance providers who are funded through tax dollars. They perform the majority, if not all, 9-1-1 emergency runs at a financial loss. These financial losses are offset by income earned on non-emergent scheduled transports. With processing and approval of new providers under the non-substantive review process, it would be easier for new providers to enter a market and "cherry pick" the more profitable non-emergent scheduled transports. If this occurs, public and governmental ground ambulance providers could be forced to seek tax increases to offset their financial losses or be forced to cease providing services.

I respectfully request that you add the formal review process back into the State Health Plan for Ground Ambulance Service through an Amended After Comments version of the regulation. If you have any questions or would like to discuss this further, please feel free to contact me at (502) 564-8100, Ext. 625.

Sincerely,

Julie Raque Adams

Julie Raque adams

State Senator



June 30, 2015

## VIA FAX ONLY (502) 564-7573

Ms. Tricia Orme, Administrative Specialist III Cabinet for Health and Family Services Office of Legal Services 275 East Main Street, 5W-B Frankfort, Kentucky 40621

RE: 900 KAR 5:020. State Health Plan for facilities and services.

Dear Ms. Orme:

Please accept these comments on behalf of Rural Metro Corporation d/b/a Rural/Metro Ambulance ("Rural Metro") in opposition to the proposed changes to the State Health Plan ("SHP") Review Criteria for ground ambulance services.

In Kentucky, Rural Metro serves the eight counties that comprise the Northern Kentucky Area Development District ("ADD") (Boone, Campbell, Carroll, Gallatin, Grant, Kenton, Owen, and Pendleton Counties), Louisville, and Lexington. Rural Metro operates both advanced life support and basic life support ambulance services and provides 9-1-1 emergent, 9-1-1 emergent immediate, and non-emergent immediate transports. In Grant County, Rural Metro, along with the City of Dry Ridge, provides the 9-1-1 service for the county. For over 65 years, Rural Metro has been a leading provider of private ambulance and fire protection services in 21 states and over 700 communities nationwide. With approximately 10,000 employees nationwide and 250 in Kentucky, Rural Metro provides more than 1.3 million ambulance transports annually, 45,000 of which originate in Kentucky. Rural Metro holds 90 contracts for 9-1-1 coverage nationwide and also operates under preferred provider agreements with more than 800 health care providers throughout the United States, including Kentucky. As a national provider of ambulance services, Rural Metro has a vast knowledge of, and experience with, ground ambulance services certificate of need ("CON") requirements, particularly those in Kentucky.

The proposed changes to the SHP Ground Ambulance Review Criteria directly contradict the statutory purpose of Kentucky's CON Program and are inconsistent with health policy/planning initiatives. Under KRS 216B.010, the delineated findings and purposes of the CON laws are to:

insure that the citizens of this Commonwealth will have safe, adequate, and efficient medical care; that the proliferation of unnecessary health-care facilities, health services, and major medical equipment results in



Ms. Tricia Orme, Administrative Specialist III Cabinet for Health and Family Services Office of Legal Services June 30, 2015 Page 2 of 4

RE: 900 KAR 5:020. State Health Plan for facilities and services.

costly duplication and under use of such facilities, services, and equipment, and that such proliferation increases the cost of health care within the Commonwealth.

The current SHP Review Criteria for Ground Ambulance Providers protect against the issues raised in this letter. The current review criteria are:

An application for ground ambulance services shall be consistent with this Plan if the following criteria are met:

- I. The opplicant shall document that the appropriate local legislative body (fiscal court, city council, or both if applicable) has been given notice of the applicant's intent to obtain a certificate of need. The notice shall describe the scope of service and proposed service area. For purposes of this requirement, the term "appropriate local legislative body" refers only to those legislative bodies that are currently licensed to provide ambulance services in the applicant's proposed service area;
- 2. In the event of competing applications to add services in the same service area, preference shall be given to an application proposing the higher level of service. If multiple providers propose ALS services, then preference shall be given to the applicant who most thoroughly documents need for the service and presents ability to meet the need; and
- 3. Applications to provide only Class II or Class III services shall be accompanied by documentation (e.g., charts depicting response times of existing service, number of runs during the previous year, and comparable supportive data) that the need for scheduled or critical care inter-facility transportation is not being met by the existing emergency or other Class II or III ground ambulance services. In the presence of this evidence, priority shall be given to a competing application, if any, for the addition of vehicles, expansion of service areas, or comparable modifications that would allow an existing emergency ambulance service provider to meet any unmet need for critical care interfacility or scheduled ambulance services.

(2013 - 2015 State Health Plan, Certificate of Need Review Standards, p. 53 (August 2013)).



Ms. Tricia Orme, Administrative Specialist III Cabinet for Health and Family Services Office of Legal Services June 30, 2015 Page 3 of 4

RE: 900 KAR 5:020. State Health Plan for facilities and services.

Currently, a CON application seeking to establish or expand a ground ambulance service in Kentucky is processed through full, formal review. Under formal review, the applicant has the burden of proof to show that the application is consistent with all five of the statutory criteria: (1) Consistency with plans; (2) Need and accessibility; (3) Interrelationships and linkages; (4) Cost, economic feasibility, and resources availability; and (5) Quality of services. KRS 216B.040(2)(a)2.a. - e.

Recently, Rural Metro was successful in opposing an out-of-state applicant attempting to enter the Northern Kentucky market. This application was denied on all five statutory criteria. Had the applicant been able to proceed under the expedited, non-substantive review process in which need for the proposal would have been presumed and the other statutory criteria were not relevant, there may have been a different decision. As the administrative record clearly revealed, any different result would have been harmful to Kentucky's citizens and could have adversely impacted existing ambulance providers in both the urban and rural markets that comprise the Northern Kentucky ADD. Specifically, in finding that the applicant could only achieve its utilization projections in Carrol County by taking existing runs from Carroll County EMS, the Hearing Officer stated that, "this will place a 'gross burden on taxpayers, which are the funding source for Carroll County EMS.' This is particularly true given Carroll County is a community with a 28% poverty rate and an unemployment rate of 9.6%." In re: First Care Ohio, LLC, C/N #000-00-5566(1), Case No. DAH CON 14-993 (April 15, 2015).

By removing the Ground Ambulance Review Criteria from the SHP, CON applications seeking to establish or expand ground ambulance services would be reviewed under the expedited, non-substantive review process. Under non-substantive review, the need for the proposal is presumed. The affected party, not the applicant, has the burden to rebut the presumed need for the proposal by clear and convincing evidence, a higher hurden of proof than the applicant has in formal review. The applicant would no longer have to prove that the application is consistent with the SHP; that is has sufficient interrelationships and linkages in the proposed service area; that it is a financially viable entity that can provide the proposed services in a cost-effective manner, and that it is a quality provider. Without evidence of an applicant's ability to provide services in a cost-effective and quality manner, the health, safety, and welfare of Kentucky citizens could be compromised. Further, it may result in existing providers unexpectedly exiting the market due to financial constraints, which could limit access to ground ambulance services and potentially impact the ability of existing providers to continue to operate.

It is critical to the life, safety, and welfare of Kentucky citizens that CON applicants demonstrate their consistency with these statutory requirements, particularly out-of-state applicants that have not previously served Kentucky citizens and are not regulated under the



Ms. Tricia Orme, Administrative Specialist III Cabinet for Health and Family Services Office of Legal Services June 30, 2015 Page 4 of 4

RE; 900 KAR 5:020. State Health Plan for facilities and services.

licensure standards established by the Kentucky Board of Emergency Medical Services ("KBEMS"). By relaxing the CON requirements for out-of-state providers, it could result in a proliferation of ambulance services that are not financially viable, and cannot be financially viable in Kentucky, because they do not have appropriate referral sources to implement their proposal. Further, by not having to demonstrate compliance with quality requirements, it may allow certain out-of-state providers with negative licensure and regulatory history to enter the Kentucky market. This includes out-of-state providers that illegally operate in Kentucky in direct violation of Cease and Desist Orders issued by KBEMS.

Moreover, there are simply not enough qualified, trained EMTs and paramedics in Kentucky to provide the necessary staffing for the large number of ground ambulance services that will arise if this proposal stands. Currently, there is a shortage of EMTs in Kentucky, as well as the nation. If the process is relaxed to allow the proliferation of unnecessary ground ambulance providers, these services can only be staffed by recruiting staff away from existing providers. In turn, this may cause existing providers to reduce the services it offers or completely exit the market. In no way will it increase access to ground ambulance services in Kentucky.

In other states where CON laws have been repealed or relaxed, the number of ground ambulance services has dramatically increased. For example, in Ohio and Indiana, which do not have CON Programs, there are several ground ambulance services operating in an already saturated market. This has resulted in providers negotiating rates at such low levels so that many cannot sustain long-term operations. In turn, patients' access to quality ground ambulance providers is drastically reduced. Historically, when CON is relaxed or lifted, states quickly experience dramatic growth in the number of ground ambulance services; such growth inevitably leads to CMS and OIG inquiries. These are undesirable results in the Commonwealth, particularly in a service that is already certain scrutiny from regulatory bodies.

Thank you for your consideration of these comments.

Sincerely,

Daniel H. Peck Regional Director

061815 Orme Rural Metra Comments Hr.



## George Lusby

Scott County Judge/Executive P.O. Box 973 Court House, Main Street Georgetown, Kentucky 40324

> Telephone (502) 863-7850 Fax (502) 863-7852

June 26, 2015

Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, KY 40601

Dear Ms. Orme:

Our EMS agency opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Medical Services system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue by \$277,014.47. This could potentially jeopardize the availability of ambulance services in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

**George Lusby** 

## Mike Pryor

County Judge/Executive
Nicholas County



P.O. Box 167 Carlisle, Kentucky 40311 (859)289-3725 (859) 289-3705



June 25, 2015

Tricia Orme Office of Legal Services 275 East Main St. 5 W-B Frankfort, KY 40601

Dear Ms. Orme:

Our EMS agency opposed the amendment to 900 KAR5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Medical Services system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue by a substantial amount that in turn, be a negative effect on our ambulance budget that could affect our ability to operate our ambulance service. This could potentially jeopardize the availability of ambulance services in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

If you should have any questions, please call me at the above telephone number.

Sincerely,

Mike Pryor

County Judge/Executive

MP/drp



## **Hardin County Government**

Judge/Executive Harry L. Berry P.O. Box 568, Elizabethtown, Kentucky 42702

The Commonwealth's Premier County To Live, Work, and Raise a Family

June 25, 2015

Ms. Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, Kentucky 40601

Dear Ms. Orme:

Hardin County Government, as the owners and operators of Hardin County EMS, strongly opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of Certificates of Need to operate our Emergency Medical Service, we believe allowing other agencies to provide ambulance service in our area will significantly reduce the operating funds necessary to operate our service. Such impact on revenues would likely cause the county-operated EMS to cease providing services. Much like fire and police services, multiple providers of the same emergency response service in a relatively small jurisdiction does not make economic sense. These services are vital to our citizens and are best protected through the certificate of need process.

For these reasons, Hardin County Government does not support the removal of the ambulance services section from the requirements for obtaining Certificates Of Need as proposed from 900 KAR 5:020.

Respectfully,

Harry L. Berry

Hardin County Judge/Executive

HLB:sp

Office: (270) 765-2350 • Fax: (270) 737-5590 • E-mail: hcgo@hcky.org

#### MIKE ANDERSON

Wayne County Judge/Executive Post Office Box 439 Monticello, Kentucky 42633 (606) 348-4241 Fax (606) 348-6647



RONNIE K. TURNER Magistrate District 1

JEFFERY D. DISHMAN Magistrate District 2

DALE C. VAUGHN Magistrate District 3

TROY G. NEAL Magistrate District 4

HANK BASSETT Deputy Judge Executive

Michael Anderson Wayne County Judge Executive 55 North Main St. Monticello, Kentucky 42633

June 26th, 2015

Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, KY 40601

Dear Ms. Orme:

Our EMS agency opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Medical Services system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue by 70% or \$769,151.17. This could potentially jeopardize the availability of ambulance services in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

Michael Anderson



06-25-15

Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, KY 40601

Dear Ms. Orme:

Our EMS agency opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Medical Services system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services without a Certificate of Need in the area where we have been operating could drastically decrease our revenue by over \$100,000. This could potentially jeopardize the availability of ambulance services in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

Bryan S. Cutsinger

EMS Director

## **NELSON COUNTY - KENTUCKY**



DEAN WATTS, County Judge Executive P.O. BOX 578 - One Count Square, 2nd Floor BARDSTOWN, KENTUCKY 40004-0578

Phone: (502) 348-1800 Fax: (502) 348-1873

June 25, 2015

Tricia Orme
Office of Legal Services
275 Fast Main Street 5 W-B
Frankfort, KY 40601

Dear Ms. Orme:

Our EMS agency opposes the amendment of 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Management Services system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue by 50%. This could potentially jeopardize the availability of ambulance services in the area in which we operate.

For this reason, we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Sincerely.

Dean Watts

DW/gsc





## MAYSVILLE FIRE DEPARTMENT

## 203 EAST THIRD STREET MAYSVILLE, KENTUCKY 41056

(606) 564-2506 ext. 314 • Fax (606) 564-2543

KEVIN DOYLE Asst. Fire Chief

Assistant Fire Chief Kevin Doyle Maysville Fire Department 216 Bridge Street Maysville, KY 41056

June 26, 2015

Tricia Orme Office of Legal Services 275 East Main Street 5 W-B Frankfort, KY 40601

Dear Ms. Orme:

Our EMS agency opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Medical Services system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue by \$100,000. This could potentially jeopardize the availability of ambulance services in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

Kevin Doyle

## Mercy Ambulance Service, Inc.

468 Huron Avenue Louisville, KY 40209 Phone: 368-6551 Fax: 368-8500

June 26, 2015

Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, KY 40601

Dear Ms. Orme:

Our EMS agency opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need, who has developed an Emergency Medical Services system under the current regulations, during a very challenging reimbursement period, we feel that allowing others, without a CON to provide ambulance services in our county, could potentially reduce our revenue by a significant number. This could also potentially jeopardize the availability of emergency and Medicaid reimbursed ambulance services in our service area.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

Melody A. Miller President

MAM

## Chyrill Miller

COUNTY JUDGE / EXECUTIVE MARSHALL COUNTY COURTHOUSE BENTON, KENTUCKY 42025 Phone: (270) 527-4750

June 25, 2015

Tricia Orme Office of Legal Services 275 East Main Street 5 W-B Frankfort, KY 40601

Dear Ms. Orme:

Our EMS services agency opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need and who has developed an Emergency Medical Services system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate Need could potentially reduce our revenue. This could potentially jeopardize the availability of ambulance services in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020

Respectfully,

Chryill Miller
Judge/ Executive

Chymu Miller

CM/kf



# Office of Logan County Judge Executive Logan Chick



P.O. Box 365
Russellville, KY 42276
Email: logancounty@bellsouth.net

Telephone: 270-726-3116 Fax: 270-726-3117

June 25, 2015

Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, KY 40101

Dear Ms. Orme:

Our EMS agency opposes the amendment to 900 KAR 5:020, the State Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Medical Services system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue by \$60,000 to \$65,000. This could potentially jeopardize the availability of ambulance services in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

Logan Chick

Logan County Judge Executive



June 28, 2015

Ms. Tricia Orme Office of Legal Services 275 East Main Street 5 W-B Frankfort, KY 40601

Dear Ms. Orme:

The Murray-Calloway County (MCCH) EMS opposes the proposed amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

MCCH EMS presently holds the Certificate of Need to service the emergency transport needs of the citizens of Calloway County. We have established reciprocal/mutual aid agreements with some of the surrounding counties and multiple agencies in support of emergency services. Maintaining these linkages is vital to essential communication required in emergent situations that occur daily throughout our service area across all agencies. The service is staffed for this need and the market is not saturated beyond our capability. Our EMS service has also established training and interworking relationships with local fire, City Police and county Sheriff's departments to ensure a seamless system of support and emergency response throughout the county. MCCH EMS ensures for the highest level of paramedic and EMT support to the community and has continued to raise this bar over the past decade to ensure for the highest quality trained employees ready to deliver this important level of care. Clearly, a competing provider would siphon on what limited paramedics there are in this community not only impacting the MCCH EMS but also potential pull from the local Fire Department that also employs paramedics.

While we understand the opportunity that free market enterprise represents, we also recognize that siphoning off potential payers to this already established system would further jeopardize, rather than subsidize, the system of care and support that is already established. Further, introducing new players into an unsaturated market would add a level of redundancy that would actually add total cost for health care services to this community rather than decrease them which could be detrimental to any start-up and established players in the market as the share is divided, ultimately leading to poor financial outcomes for both entities. As example, a 20% loss of services alone could financially impact this organization by \$178,681 with an obvious impact to jobs. Our service is self-sufficient and receives no subsidy from tax base. Financial instability could potentially jeopardize the availability of ambulance services in the area in which we operate due to tough fiscal decisions by our local Board of Trustees and city/county government.

In recap, loss of our ability to operate under protection afforded under CON could jeopardize the overall quality care delivered at the site of an accident. Diminished quality, confusing communication, financial crisis and limited human resources notwithstanding — Murray-Calloway County EMS is not prepared to put the lives of our citizens at risk. It is for these reasons that we do not support the removal of the Ambulance Services section as proposed from 900 KAR 5:020 and believe the requirement for Certificate of Need for Ambulance Services should remain unchanged.

Respectfully,

Muyray Calloway County Hospital

## VICKIE VINIARD

Ballard County Judge/Executive P.O. Box 276 - 437 Ohio Street Wickliffe, Kentucky 42087

BALLARD COUNTY MAGISTRATES

JOHN SUMMERS STEVE COOPER BOB RENFROW DEE HAZLEWOOD STONNIE DENVIS

FAX (270) 335-3010 PHONE (270) 335-5176 EMAIL - bcjudge@brtc.net

June 29, 2015

Tricia Orme Office of Legal Services 275 East Main Street 5 W-B Frankfort, KY 40601

Dear Ms. Orme:

The Ballard County Fiscal Court and our EMS agency opposes the amendment to 900 KAR 5:020, the state Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed and Emergency Medical Services system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue. This could potentially jeopardize the availability of ambulance services in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully, e Theat

Vickie Viniard

**Ballard County** 

Judge/Executive

117 North Public Square - Suite 3A Glasgow, Kentucky 42141

Telephone 270/651-3338 Fax 270/651-2844

June 26, 2015

Ms. Tricia Orme Office of Legal Services 275 East Main Street 5 W-B Frankfort, Kentucky 40601

Dear Ms. Orme:

Our EMS agency opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Medical Services system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue in excess of sixty percent (60%). This could potentially jeopardize the availability of ambulance services in the area in which we operate.

For this reason, we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

Micheal Hale

Barren County Judge/Executive

MH/sjj



Tricia Orme
Office of Legal Services
275 East Main St 5 W-B
Frankfort, KY 40601

Dear Ms. Orme:

Our EMS agency opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Medical Services System under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue by \$40,000.00. This could potentially jeopardize the availability of ambulance services in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully,

Dary Greenfield

**Todd County Judge Executive** 

South County Judge / Executive

Bobby C. Rogers

BATH COUNTY COURTHOUSE

19 East Main St. P.O. Box 39 Owingsville, KY 40360

Phone 606-674-6346 bcrogersbcje@gmail.com

June 29, 2015

Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, KY 40601

Dear Ms. Orme:

Our EMS agency opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Medical Services system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue by [enter calculated financial loss information]. This could potentially jeopardize the availability of ambulance services in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully

**Bobby C. Rogers** 

Bath Co. Judge/Executive

Sely C Boyur



#### OFFICE OF

## JACK B. McCaslin HANCOCK COUNTY JUDGE / EXECUTIVE

Magistrate District I WAYNE HODSKINS

Magistrate District 2 FRANKLIN W. ESTES

P.O. Box 580 ADMINISTRATION BUILDING HAWESVILLE, KENTUCKY 42348

> Phone: (270) 927-8137 Fax: (270) 927-8138

Magistrate District 3
JOHN MARK GRAY

Magistrate District 4 LARRY G. SOSH

Jack B. McCaslin
Hancock County Judge Executive
Hancock County Fiscal Court
P.O. Box 580
Hawesville, KY 42348

June 26, 2015

Tricia Orme
Office of Legal Services
275 East Main Street 5 W-8
Frankfort, KY 40601

Dear Ms. Orme:

Our EMS agency opposes the amendment to 900 KAR 5:020, the State Health Plan for facilities and services.

As a current holder of a Certificate of Need who has developed an Emergency Medical Services system under the Certificate of Need regulations during a very challenging reimbursement period, we feel that allowing others to provide ambulance services in the area where we have been operating without a Certificate of Need could potentially reduce our revenue by \$85,000. This could potentially jeopardize the availability of ambulance services in the area in which we operate.

For this reason we do not support the removal of the ambulance services section as proposed from 900 KAR 5:020.

Respectfully.

Jack B. McCaslin

**Hancock County Judge Executive** 

LB. oms C



171 N Peterson Ave Louisville, KY 40206 502.938.4864 mleach@markwleachlaw.com www.markwleachlaw.com

June 22, 2015

## VIA E-MAIL (tricia.orme@ky.gov)

Tricia Orme Office of Legal Services 275 East Main Street 5 W-B Frankfort, KY 40601

RE: Opposition to removal of ground ambulance from 2015-2017 State Health Plan

Dear Ms. Orme,

I write on behalf of Lafferty Enterprises, Inc. d/b/a Trans-Star Ambulance Service ("Trans-Star") in opposition to the proposed changes to the 2015-2017 State Health Plan (SHP), specifically the removal of ground ambulance providers from formal review. This proposed change runs exactly counter to the purposes of Kentucky's certificate of need (CON) law. Trans-Star made verbal comments at the June 22, 2015 hearing; these comments are made in addition to those made at the hearing.

### Ambulance economics

Most people think of ambulances responding to 9-1-1 calls, with sirens screaming as they run down the road to save a life. **Emergency runs** are the most costly runs to an ambulance service for several reasons:

- 1. They require 24 hour operations with higher level personnel, a paramedic and an EMT;
- 2. They involve using more supplies and equipment; and, critically,
- 3. They are the most likely *not* to be reimbursed.

How full-service ambulance companies cover those costs is through providing **non-emergency transports**. These runs are more cost-effective for the opposite reasons:

- They can be responded to by a first responder and an EMT;
- 2. They typically use few supplies and equipment; and,
- 3. They are the most likely to be reimbursed.

Non-emergency runs are what allow ambulance companies to be there when citizens most need them, in an emergency.

The proposed change puts this balance in jeopardy.

## Ramifications if proposed changes are accepted

If ground ambulance is removed from the SHP, applicants will go through the much more deferential non-substantive review process. Instead of being evaluated on whether the applicant has the necessary relationships with the area health system, operates in a cost-effective manner, and provides quality service, the application will be reviewed solely on whether there is a need for the new service, *and need is presumed. See* KRS 216B.095(4), 900 KAR 6:075(7).

Beyond risking bringing in providers that fail to provide quality services, this new system will surely result in providers only doing the most cost-effective runs, the non-emergency runs. This will result in a domino effect endangering citizens' health and resulting in higher taxes.

As new providers siphon off the non-emergency runs, the percentage that non-paying emergency runs make up of existing full service providers transports will increase. No company can continue operating at loss, which will put the local governing body and its citizens in a tough position: either the emergency responders will close operations or they will have to be subsidized through a local tax. Given this option—and no way to compel the new companies to provide emergency services—responsible public officials will have no choice but to impose a new tax, or raise an existing tax levy, for ambulance services.

This effect runs entirely counter to the entire purpose of the certificate of need law, namely to provide safe, adequate, and efficient health care services. Removing ground ambulance from the SHP will result in the exact opposite: citizens will be endangered due to inadequate service and will result in greater public spending to ensure emergency response.

## SHP for ambulance service should remain unchanged

The old saying that "if it ain't broke, don't fix it" applies at least to ground ambulance remaining in the SHP.

The SHP requires applicants who wish to just cherry-pick the nonemergency runs to prove that the existing providers are not serving those runs. Similarly, where two applicants are considered, the one offering the higher level of service, i.e. performing both emergency and non-emergency runs, is favored by the SHP. The SHP further requires applicants to notify all local governing bodies operating an ambulance service of their intent to apply to provide service. This would no longer be required if ground ambulance is removed from the SHP, and, given the very short turnaround time required by statute for non-substantive review, local governing bodies would not have the notice or time to prepare if they wished to oppose an unnecessary, or worse, poor-

quality provider from moving into their county and sweeping up the non-emergency runs.

The SHP currently addresses these concerns and should remain unchanged.

### Case-study No. 1: avoiding CON scrutiny risks lives

Trans-Star knows of what it speaks about ambulance providers and the level of service delivered when not required to go through CON review.

Trans-Star provides Class I ALS/BLS ambulance service to several counties surrounding its headquarters in Prestonsburg, Floyd County and has done so for over a decade. In 2011, an existing provider sold its stock to a new provider, Questcare EMS. Questcare did not have to go through CON review, and, therefore, was not required to prove it would provide cost-effective, quality ambulance services. It turned out that Questcare would not have been able to meet this burden based on how it actually operated.

Not too long after Questcare began operating in the Big Sandy Area Development District Counties, complaints were filed by the patients Questcare transported, notably for operating in the summer without air-conditioning. Headlines appeared of wrecks involving Questcare ambulances, including a wreck where the driver was under the influence—thankfully no patients were being transported.

In August 2012, with deficiencies mounting against Questcare, the Kentucky Board of Emergency Medical Services (KBEMS) <u>suspended</u> all of Questcare's licenses. KBEMS' announcement of the suspensions stated:

After reviewing the evidence in an investigation of Questcare EMS the Kentucky Board of Emergency Medical Services (KBEMS) Temporary Suspension Panel determined due to major deficiencies found systemwide an Order of Immediate Temporary Suspension was necessary to protect the public's health, safety and welfare.

Soon after, Questcare <u>ceased</u> all operations. This sudden closure left Kentuckians in dire straits. Questcare had been the only provider for Magoffin County. KBEMS and the CON office reached out to Trans-Star in order to ensure ambulance service remained in Magoffin County. Trans-Star began operations pursuant to an Emergency CON which was then made a full CON when Trans-Star's application was unopposed.

The example of Questcare is one that can still happen through an acquisition of an existing provider. However, the removal of ambulance services from the SHP would make it a more likely occurrence as new providers are able to avoid proving they will operate in a cost-effective and quality manner.

## Case study No. 2: cherry-picking ability endangers small counties

The proposed removal would further endanger counties like that of Magoffin: smaller counties with low population. These counties are the hardest to provide full ambulance service to—there are barely enough ambulance runs that are paid to offset the higher costs of staffing and supplying a 24 hour-7-days-a-week emergency response provider. A neighboring county of Magoffin provides this example.

Wolfe County had for years had a Class I ALS emergency response ambulance service. But, Wolfe County is one of the least populated and one of the poorest counties in Kentucky. Even with tax subsidies, Wolfe County's ambulance service ceased operations. Again, KBEMS and the CON office reached out Trans-Star to ask Trans-Star to cover Wolfe County. And, again, Trans-Star did so pursuant to an emergency CON.

If the proposed changes are allowed to go through, it will be near impossible to stop a new provider from benefiting from the presumption of need of nonsubstantive review and receive a CON for these smaller counties. It would be in the new provider's business interest to focus on the more-often reimbursed nonemergency scheduled runs from the area nursing homes and health facilities, leaving the emergency runs to be handled by the existing county ambulance provider. Wolfe County's fate would be shared by other smaller counties, with the emergency ambulance provider either having to require public subsidy through a local tax, or stop operations leaving the county uncovered for emergency runs.

## Not supported by modernization's goals

What's already been covered demonstrates how removal of ambulance services from the SHP will not serve the modernization goals of incentivizing quality, improving access to care, or improving value of care. Instead, removal will incentivize services that focus solely on nonemergency transports, reducing access to care as existing full-service providers close operations, unless emergency services are subsidized, thereby reducing the value of care.

The one goal that seems to be the root of the proposed removal is exempting services for which CON is no longer necessary. That goal has as its premise that "Kentucky regulates via CON many services that even CON states exempt." While it is true that some CON states no longer (or perhaps never did) regulate ambulance service, that is not true for all CON programs.

For example, <u>New York</u> state still requires that ambulance services receive a CON through formal review, as does <u>Washington D.C</u>. Perhaps the greatest counter-example is <u>Arizona</u>, which does not have a CON program *except for* ambulance services.

It is not enough to say that some CON states choose not to regulate ambulance services, since there are others that do regulate ambulance service. Without a showing that deregulation of ambulance service improved or did not harm the quality of service provided and did not increase the cost, either in actual ambulance rates charged or in

taxes levied to subsidize ambulance services, then a basis has not been shown to justify the removal of ambulance services from the SHP.

#### Conclusion

There has not been given a reason to justify the removal of ambulance services from the SHP. Rather, in the public comments made at the June 22, 2015 hearing and in the filing of written comments, including this one, abundant reasons have been given as to why removal of ambulance services from the SHP would be counter to the purposes of the CON program.

Duplicative services would enter existing providers' service areas, syphoning off the nonemergency transports and leaving emergency services needing public subsidization through taxes. Quality would suffer as emergency services become less cost feasible and new providers seek to maximize profits by reducing investment in their personnel, equipment, and vehicles for providing just nonemergency transports.

The current system permits private providers, like Trans-Star, to be good community partners as well as sound businesses, by providing the proper mix of emergency and non-emergency runs to make a full service emergency responder cost feasible. Removal of ambulance services from the SHP will endanger our citizens, increase taxes, and lower quality services. The proposed change should not be accepted.

Very respectfully,

/s/Mark W. Leach, Esq.

Counsel for Trans-Star Ambulance Service



COMMISSIONERS Charlie Castlen - Central Division Mike Koger - Eastern Division

Al Mattingly **Daviess County Judge/Executive** 

P. O. Box 1716 Owensboro, Kentucky 42302-1716 Telephone: (270) 685-8424

**Daviess County Courthouse** 

JUN 29 2015 OFFICE OF THE SECRETARY



June 26, 2015

George Wathen - Western Division

Secretary Audrey Haynes Cabinet for Health & Family Services Office of the Secretary 275 E. Main St., 5W-A Frankfort, KY 40621

**Emily Whelan Parento** O'Neill Institute for National & Global Health Law Georgetown University Law Center 600 New Jersey Avenue NW Washington, DC 20001

Dear Secretary Audrey Haynes and Ms. Emily Whelan Parento,

I am writing to you today to express my concerns with the proposed amendment to 900 KAR 5:020 State Health Plan for facilities and services.

While I applaud the Cabinet's efforts in striving to streamline government processes while caring for the needs of our citizens, the changes in the regulation would generate unintended consequences. These changes will gravely impact the existing publically funded governmental ground ambulance providers, who are funded through tax dollars due to their inability to generate a profit. Many counties, cities, etc., have privatized ambulance services that operate with significantly less taxpayer subsidies, or in some cases, with no subsidy.

Here in Daviess County, inclusive of Owensboro, Yellow Ambulance operates with no taxpayer subsidy. With processing and approval of new providers under the proposed non-substantive review process, it would be easier for new providers to enter the market and "cherry pick" the more profitable, non-emergent transports out of Owensboro and the surrounding county. If this occurred, Yellow Ambulance could not continue to operate in Daviess County without a subsidy and would force taxpayers to once again have to provide support for ambulance services.

Sincerely,

Al Mattingly

Daviess County Judge/Executive